

REMARKS

Claims 1-21 stand rejected. Claims 1-18 have been amended. No new matter has been added. The Applicants respectfully request reconsideration in view of the foregoing amendments.

Miscellaneous Amendments

Claims 2-11 and 13-18 have been amended for the purpose of clarity, grammar and/or proper antecedent basis. No new matter is introduced.

Claim Rejections - 35 U.S.C. § 102

Claims 1-21 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent 6,778,968 (“Gulati”).

Claim 1 and 12 as now amended respectively recite a computer system and a method for exchanging a financial note for a quantity of an exchange traded item. Specifically, claims 1 and 12 respectively recite structure for and steps of calculating an exchange ratio of a level of a benchmark index relative to a price of an exchange traded item and delivering a quantity of the exchange traded item to the investor in exchange for the financial note in accordance with the calculated exchange ratio. Support for these features can be found at least in the specification as originally filed on pages 4, 5 and 14.

Accordingly, the quantity of the exchange traded item, such as stocks, options, bonds or other financial instruments, delivered to the investor in exchange for the financial note depends on the level of a benchmark index such as a stock index or another market index (e.g., Dow Jones Industrial Average stock index, Standard & Poor’s 500 stock index, German DAX stock index) as opposed to the underlying exchange traded item alone. (See the specification as originally filed on pages 4, 5 and 11).

In contrast, Gulati merely discusses a method for estimating the value of secondary market objects, such as securitized loans in a secondary market using a number of external factors, such as bond yields, prime rate and other economic indicators. (See Gulati: FIGS. 6 and 13; column 10, lines 8-23; column 6, lines 8-65; column 14, lines 17-34). Gulati does not teach

or suggest exchanging a financial note for a quantity of an exchange traded item by calculating an exchange ratio of a level of a benchmark index relative to a price of an exchange traded item and delivering a quantity of the exchange traded item to the investor in exchange for the financial note in accordance with the calculated exchange ratio, as recited in claims 1 and 12.

Furthermore, we disagree with the assertion in the office action that the calculation of the exchange ratio is inherent to the calculation of a commission for auction listing services in Gulati. Gulati merely states that the commission may be “a percentage of the transaction value to list a portfolio or request.” (See Gulati: column 32, lines 24-40). Such a calculation has no relation at all to exchanging a financial note for a quantity of an exchange traded item in accordance with an exchange ratio, as recited in claims 1 and 12.

For at least these reasons, claims 1 and 12 are patentable as they are neither anticipated nor obvious in view of Gulati.

Furthermore, by virtue of at least their dependency upon claims 1 and 12 and the additional features recited therein, claims 2-11 and 13-21 are also patentable.

CONCLUSION

In view of the above amendments and remarks, it is believed that claims 1-21 are in condition for allowance, and it is respectfully requested that the application be passed to issue. If the Examiner feels that a telephone conference would expedite prosecution of this case, the Examiner is invited to call the undersigned.

Respectfully submitted,



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